

REMARKS

I. Status of the Claims

Claims 1, 3-9, and 11-13 were pending at the time of the Office Action. Claim 1 has been amended to include the limitations recited by examined claim 8. Claim 8 has been canceled. No new claims have been added. Therefore, claims 1, 3-7, 9, and 11-13 remain pending.

All limitations recited in the pending claims were presented in claims previously before the Examiner. Therefore, a new prior art search is not necessitated by the present claim amendments.

II. Statement of Substance of Interview

Applicants thank the Examiner for extending the courtesy of granting the Applicants a telephonic interview February 6, 2009.

Present on the interview were Examiner Skowronek and Applicants' undersigned representative. Examiner's comments in the Office Action related to the claimed "associative T-test limitation were discussed. No agreement was reached.

III. The Pending Claims Are Patentable Over the Cited References

Claims 1, 3-9, and 11-13 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Wu (IDS file 2/27/04, Entry C13), in view of Shaffer (Annual Review of Psychology, Vol. 46, p. 561-584, 1995), in view of Cole et al. (Prenatal Diagnosis, Vol. 19, p. 351359, 1999) and in view of deGroot et al. (Analytica Chimica Acta, Vol. 446, p. 71-83, 2001). Claims 1 and 7 stand rejected under 35 U.S.C. 103(a) as being unpatentable over the above-listed references, and further in view of Jensen et al. (Bioinformatics, Vol. 16, No. 4, p. 326-333, 2000). Applicants

respectfully traverse and submit that the pending claims are patentably distinct over the cited combinations.

Claim 1 is amended to recite that the associative T-test comprises “a test in which a plurality of replicated residuals for each gene of the plurality of the expression profiles of the experimental group are compared with an entire set of residuals from the plurality of expression profiles of the control group” (the “Associative T-Test Residuals Limitation”). This limitation was previously recited in examined claim 8. Claim 13 also recites the Associative T-Test Residuals Limitation. Pending dependent claims 3-7, 9, and 11-12 each depend from claim 1, and therefore also include the Associative T-Test Residuals Limitation.

None of the cited references teach or suggest the Associative T-Test Residuals Limitation. In the Office Action, the Examiner alleged that “the features upon which applicant relies (i.e., the application of a T-Test to residuals) are not recited in the rejected claim(s).” Office Action at 8 (emphasis added). Applicants respectfully submit that the pending claims recite the Associative T-Test Residuals Limitation, which specifies the comparison of residuals. Accordingly, pending claims 1, 3-7, 9, and 11-13 are patentably distinct from the cited combination, and withdrawal of the rejection is respectfully requested.

III. Conclusion

Applicants believe that these remarks fully respond to all outstanding matters for this application, and respectfully submit that all claims are in condition for allowance. Should the Examiner have any questions regarding this submission, a telephone call to the undersigned agent at 512-536-3027 is invited.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Eric B. Min', with a stylized flourish at the end.

Eric B. Min
Reg. No. 54,761
Agent for Applicants

FULBRIGHT & JAWORSKI L.L.P.
600 Congress Avenue, Suite 2400
Austin, Texas 78701
Telephone: (512) 474-5201
Facsimile: (512) 536-4598

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